

REMARKS / ARGUMENTS

During an informal telephone conversation held on December 28, 2007 between Applicants' undersigned representative and Examiner Wollenberger of the USPTO, Examiner Wollenberger indicated that he believed there was allowable subject matter among the "product" claims (*i.e.*, claims 16-34), as amended in the Applicants' Response filed October 15, 2007. Consequently, Examiner Wollenberger indicated that it was his intention to now rejoin the withdrawn "process of use" claims (*i.e.*, claims 1-15) and examine them for patentability, before issuing a Notice of Allowance in the case. Examiner Wollenberger noted, however, that he had found the Amendment and Response of October 15, 2007 to be non-compliant due to the use of improper status identifiers for the amended claims, and he indicated that he would be preparing a Notice of Non-Compliant Amendment to be mailed out early 2008.

During the telephone conversation, Examiner Wollenberger kindly reviewed the non-compliant aspects of the previous Response with the undersigned Applicants' representative. In addition, Examiner Wollenberger noted that, of the withdrawn claims, claims 4 and 5, which are dependent upon claim 1, and claims 13 and 14, which are dependent upon claim 12, contained the phrase "in-vivo," which appeared to refer to aspects of independent claims 1 and 12 that had been removed by the amendments presented in Applicant's Response of October 15, 2007. Specifically, the phrase "in-vivo," appeared to refer to the "non-human organisms" of the prior versions of independent claims 1 and 12. Examiner Wollenberger reasoned that since the subject of "non-human organisms" had been removed from amended claims 1 and 12, the phrase "in-vivo" in dependent claims 4, 5, 13 and 14, would no longer have proper antecedent basis in claims 1 and 12. Potential remedies for this problem were discussed, and it was mutually agreed that the phrase "in-vivo" in claims 4, 5, 13 and 14, should be replaced with the phrase "intracellular," which would find proper antecedent basis in the "target cell cultures" of amended, but currently withdrawn, claims 1 and 12.

Subsequent to the telephone conversation described above, a Notice of Non-Compliant Amendment (hereinafter "Notice"), was issued and mailed on January 8, 2008. This Notice specifically asserts that withdrawn claims 1-3, 5, 6, 11, 12, 14 and 15, which had been amended by Applicants in anticipation of rejoinder in accordance with the provisions of MPEP § 821.04, were not given the proper status identifier of "withdrawn – currently amended," but were,

instead, identified only as “withdrawn.” Additionally, the Notice asserts that claims 19, 20, 25, and 26 were improperly identified as “previously presented,” rather than as “currently amended.”

The Notice was received and reviewed, and, in response, Applicants provide herein a new listing of the claims. This new listing of the claims contains amendments to specifically correct the deficiencies identified in the Notice, and to address the issues raised in the telephone conversation described above.

Applicants respectfully request entry of the amended claims, and respectfully request reconsideration of the Application by the Examiner in view of the amended claims, and in further view of following remarks and arguments.

CLAIM AMENDMENTS

Claims 1 through 34 are pending in the Application, and claims 1 through 15 are currently withdrawn from consideration as being directed to a non-elected invention. Therefore, claims 16 through 34 are currently under examination on the merits. Applicants note that claims 16-34 are related to claims 1-15 as “products” and “process of use,” respectively, and Applicants have previously requested rejoinder and examination of claims 1-15, in accordance with the provisions of MPEP § 821.04

Claims 1-6 and 11-16, 18-21, 24-26, and 30 are being amended as shown. As noted, claims 1 - 6 and 11 - 15 are currently withdrawn, but these claims have been amended in anticipation of rejoinder.

Regarding the amendments provided herein: Claims 1-3, 11, 12, 16 and 18 have been amended by the insertion of the term “10 or more” following the phrase “a plurality of.” Support for these amendments can be found on page 60, line 29, page 65, line 11 and page 67, line 1 of the specification. Claims 21 and 24 are being amended to define an intermediate number of expression vectors (claim 21) or target cell cultures (claim 24) between that of independent claims 16 and 18, respectively, and that of subsequent dependent claims 22 and 25, respectively. Support for these amendments can be found on page 65, line 11, and page 65, lines 1 and 6 of the specification.

Additionally, claims 1-3, 5, 6, 11, 12, 14, 15, 18-20, and 24-26 are being amended to remove the phrase “non-human organism,” and to uniformly recite “target cell cultures” wherever “cells,” or “target cells” were referred to previously. Applicants note that the removal

of “non-human organisms” from the scope of claims 1-3, 5, 6, 11, 12, 14, 15, 18-20, and 24-26 is being done without prejudice, and Applicants specifically reserve their right to pursue such subject matter in a divisional application. Support for the claimed kits and methods in which “target cell cultures” are provided is found throughout the specification, but literal support for selectively manipulating the expression levels of a plurality of distinct gene products in “cultured target cells” is found in the paragraph bridging pages 7 and 8.

As noted above, because “non-human organisms” were removed from the subject matter of amended claims 1 and 12, it is believed that there is a lack of antecedent basis for the phrase “*in vivo*” in dependent claims 4, 5, 13 and 14. In view of this, Applicants have amended dependent claims 4, 5, 13 and 14 to recite methods of “inducing the intracellular transcription of said universal interfering RNA,” rather than methods of “inducing the in vivo transcription of said universal interfering RNA.” Support for this amendment is found, for example, in the paragraph beginning on line 10 of page 40. It is believed that this amendment eliminates any potential problems with improper antecedent basis caused by the deletion of “non-human organisms” from the subject matter of independent claims 1 and 12.

Finally, non-substantive amendments were made to claim 12 and claim 30 in order to correct obvious grammatical errors and improve readability of the claims. Specifically, a comma was deleted in claim 12, and the word “or” was deleted in claim 30.

The amendments provided with this response should be entered into the record because they neither add new matter to the Application, nor raise any new issues that would require further search or examination. Moreover, it is believed that these amendments place the claims in condition for allowance, or, alternatively, in better condition for appeal.

CONCLUSIONS

Claims 16 through 34 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact the undersigned via his direct office line at 801-883-3463.

Additionally, should either claim 16 or 18, or both, be found to be allowable, Applicant respectfully requests rejoinder and examination of withdrawn process (method) claims (i.e., claims 1-15), in accordance with the provisions of MPEP § 821.04.

It is believed that no extensions of time, or any fees, are due with this response. If this is incorrect, an extension of time as deemed necessary is hereby requested, and the Commissioner is hereby authorized to charge any appropriate fees, or credit any over payment, to Deposit Account no. **50-1627**.

Respectfully submitted,

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February 8, 2008

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